

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2375 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

HARIBHAI BHIMBHAI NAIK

Versus

URBAN LAND CEILING TRIBUNAL

Appearance:

None present for Petitioners

MR MUKESH A PATEL for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/10/1999

ORAL JUDGEMENT

1. This petition was admitted on 9th May, 1988 and interim relief in terms of para-20 (d) was granted. Though more than eleven years have already been passed, none of the respondents have cared to file reply to the special civil application. It is not the say of the respondents that the possession of the land in dispute has been taken by them. Para -20 (d) of the special civil application reads as under:

Be pleased to grant stay of the execution and operation of the order at Annexure B passed by the respondent No.1, directing the respondent No.2 not to proceed further on the basis of the said order or on the basis of the order at Annexure A, against the petitioners, till this petition is finally heard and decided by this Hon'ble Court;

2. The Urban Land (Ceiling & Regulation) Repeal Act, 1999 has come into force about eight months back and even thereafter it is not cared by the respondents to file appropriate reply to this petition. Today Shri Mukesh Patel produced a zerox copy of the letter dated 18th October, 1999 of the Revenue Department, Sachivalaya, Gandhinagar, addressed to the Government Advocate, on the record of this special civil application. Though this document is in Gujarati which I cannot read, but Shri Mukesh Patel has given out the contents thereof to me. I hardly find any justification in this letter and to grant indulgence to the respondents by adjourning such type of matters.

3. It is a fact that in more than 90 % writ petitions, the State of Gujarat or its officers are party. Even in civil cases, the percentage of the State of Gujarat or its officers as party is sufficiently high. From different corners sometimes a voice is raised that the matters are being delayed in the courts, but for the courts it is not open to explain its position before the public at large and whatever blame put forth against this institution has to be taken. In case the proceedings of the courts are telecast live, the people of the country may come to know who are at fault for this delay in disposal of the matters. It is not gainsay that delay is there for the reason that the State of Gujarat is not providing full cooperation and assistance in the matters despite of the fact that in almost more than 90 % of the cases it is a party. It is unfortunate for the people of the country that despite of keeping a handsome amount in the budget for defending the litigations which are filed against the State of Gujarat and its officers in the Courts, that much of assistance the courts are not getting. In substantial percentage of the cases, replies are not filed. This is clearly borne out from the present case where though this matter has been admitted in 1988 but the State of Gujarat and its officers have not cared to file reply to the same. Short of staff with the State Government cannot be a ground. The litigants come up to this court with a hope of speedy disposal of their matters but the State Government makes it

difficult for the courts to speedily dispose of the matters. The Urban Land (Ceiling and Regulation) Act has been repealed and I have been given out that thousands of cases of this category are pending and out of them substantial number would have been abated but still the State Government is not in a position to identify those cases, give list of those cases to the court so that the same may be disposed of which may reduce the number of pending cases before this court and time may be utilised for disposing of other matters. The pretext and excuses which are being given under the letter by none other than the State of Gujarat is hardly of any substance and relevance in the context of the facts that heavy pendency of litigation is there in the country. Instead of making convenient for the courts to decide expeditiously the matters, I am constrained to observe that the State of Gujarat and its officers are making it inconvenient for the court. The matters are listed and in most of the cases reply is not there or the Government advocate is not properly instructed and as a result thereof the hearing has to be deferred. In this case, Government advocate Shri Mukesh Patel appearing for the respondents state that he has not been instructed in the matter whether the possession of the land has been taken or not. In almost all the cases of this category, what Mr. Mukesh Patel stated, he expects that the officer concerned may come and file affidavit but instead of coming to the court for filing of the affidavit, by sending this letter they have given out excuses and only thing now to be done by him is to make a request for adjournment of the matters. This approach, attitude and the manner of the officers of the State of Gujarat deserves to be deprecated. It is not unknown that this court is also not having sufficient number of staff but still it is working and it is not finding out any excuses. Whatever constraints, difficulties etc. may be there but the judicial matters are to be taken seriously and more so when the matters are coming up for final hearing after more than eleven years no such excuses are to be put forth by the State of Gujarat and its officers. This attitude of the State of Gujarat and its officers is a major cause for delay in the disposal of the matters in the courts.

4. The facts of the case go to show that the petitioners are in possession of the land in dispute and in the absence of reply to the special civil application, positive statement made by the counsel for the respondents, and the order of this court passed on 9th May, 1988, it has to be taken that the petitioners are in possession of the land in dispute and as a result

thereof, this petition abates in view of the provisions of Urban Land (Ceiling and Regulation) Repeal Act, 1999 and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs. However, liberty is granted to the respondents for revival of this special civil application in case of difficulty. Copy of this judgment be sent to the Hon'ble the Chief Minister of the State of Gujarat, Hon'ble Law Minister of the State of Gujarat, Chief Secretary of the State of Gujarat, Secretary, Finance Department, Secretary to the Revenue Department and Secretary to the Law Department of the Government of Gujarat.

zgs/-